



January 4, 2013

MEMORANDUM

TO: Management Liaisons and Personnel Assistants

FR: Michelle Minnehan Golightly

RE: Military Leave and Military Pay Differential

Each year, DAS issues this memorandum to assist agencies that have employees who are on, or eligible for, military leave. The State's policy regarding military leave is unchanged; the following information is being provided at a summary level for your ease of reference. Administrative rules regarding military leave can be found in 11 IAC 63.9(8A).

This information applies to full-time employees. If you have any temporary or part-time employees who are inducted or called to active duty in the military service, please contact your Personnel Officer for assistance.

Employees Currently on Military Leave

Employees who are currently on military leave become eligible for an additional 30 workdays of paid military leave at the start of each calendar year, per Iowa Code Section 29A.28. You will begin to pay these employees for 30 workdays starting January 2, 2013, unless their normal schedule would have required them to work on January 1. You must put these employees in leave code 40 (military leave with pay) in order to pay them for military leave. The employee's health, dental, and life codes must be zeroed out of the payroll system before you start paying the 30 workdays of military leave. You must return the employee to leave code 41 after all paid military leave is exhausted. If paid military leave is available, the employee may not use leave without pay in lieu of military leave.

If an employee is on military leave and in paid status on both the regularly scheduled workday before a holiday and the regularly scheduled workday after a holiday (i.e., Martin Luther King Day on January 21, 2013), the holiday will not be counted as a military leave day, and the employee will receive the holiday pay in addition to the paid military leave. Further, if an employee is on military leave that spans calendar years, they are eligible for 30 workdays of paid military leave for each year they remain on military leave.

An employee on military leave must be allowed, upon the employee's request, to use any accrued vacation and/or compensatory leave at any point during the military service. The employer cannot require the employee to use such leave. Such use of leave may impact the employee's group insurance benefits; see the "Insurance Benefits" section of this memorandum for more information.

Call to Active Duty Military Service

When a permanent or probationary employee receives orders calling him or her to military service, the employee must provide notice to the employer. This notice may be verbal or written, and it does not need to follow any particular format. The employee should provide notice at least 30 days prior to departure when it is feasible to do so. If it is not feasible to provide at least a 30-day notice, the employee should provide notice as far in advance as is reasonable under the circumstances.

The employee may resign or may request to be placed on military leave for up to five years, or longer, in certain circumstances. Employees have return rights whether they resign or take military leave.

The effective date of the military leave or resignation of employment must be 30 workdays (or less, if some or all the paid military leave provided for by law has already been used for the calendar year) from the employee's last day at work. In other words, the employee will be carried on the payroll for 30 workdays or the balance of 30 workdays if they have previously used military leave during the calendar year. After that, they will be placed on leave without pay unless they elect to resign from employment. However, employees may elect to use accrued vacation before going on military leave or leave without pay.

Vacation, Holidays and Sick Leave – Periods of Leave Greater than 31 Days

Employees may elect to use or retain any vacation or compensatory leave that was accrued prior to the employee's military leave. An employee may supplement military leave with vacation or compensatory time. Vacation shall be charged on the employee's workday basis. If paid military leave is available, the employee may not use leave without pay in lieu of military leave.

Employees will not accrue vacation, sick leave, or holidays while on military leave.

Employees will receive holiday pay for any holidays that occur during the first 30 workdays of paid military leave if the employee is in a paid status on both the last scheduled workday before and the first scheduled workday after the holiday.

Employees who resign their position when entering active military service will be paid a lump sum of their accrued vacation on their final pay warrant.

Insurance Benefits

The employee entering active military service is eligible for military health and dental benefits. Employees receiving family health and dental insurance under the State's group plans may wish to continue that coverage for their dependents. Coverage under the State's group plans will continue for the period of time the employee continues to receive uninterrupted military, compensatory or vacation pay. Once an employee's paid leave ends, and the employee begins leave without pay of more than 30 calendar days, the State share of the employee's health and dental insurance will end. In that case, the

last month of State share eligibility will be the month in which the employee's paid leave is exhausted. Once the employee's eligibility for coverage under the State's group ends, coverage cannot be reinstated until the employee returns to employment.

The employee may elect to continue coverage for their dependents through COBRA for a maximum of 24 months. The coverage will be at the employee's expense. Employees who choose to drop health and dental insurance coverage for dependents during the period of leave are eligible for reinstatement of coverage upon return to work with no waiting period.

TRI-CARE insurance benefits are available to dependents. Information regarding these benefits must be obtained from the military. The toll-free telephone number is 1-888-TRI-WEST (888-874-9378).

The employee's Life and LTD insurance terminate the date the employee reports for active duty. Military and Veterans' benefits would then apply. The employee is eligible for Life and LTD coverage upon return to work.

Flexible Spending Accounts

Employees on unpaid leave may elect to continue their health flexible spending account for the remainder of the calendar year. Employees may prepay their remaining contributions before going on unpaid leave, or may pay their regular monthly amounts with post-tax dollars to the State. Employees who elect to continue coverage may receive reimbursement for claims incurred for the remainder of the year. Employees who do not elect to continue coverage may receive reimbursement for claims incurred through the end of the month in which they last contributed to their flexible spending account.

Employees with a dependent care flexible spending account may also prepay their contributions before going on unpaid leave, but do not need to make post-tax contributions. Any available funds in the account may be used for eligible expenses incurred through the remainder of the year, regardless of whether a contribution is made during that month.

Other Payroll Deductions

Employees who terminate employment are eligible to receive a distribution of their deferred compensation funds.

All voluntary deductions such as deferred compensation, credit union, One Gift, flexible spending accounts, and union dues cease during the period of leave without pay. Upon return, the employee may make additional employee contributions into deferred compensation to receive the employer match.

Employees who have credit union obligations must make arrangements for payment with their credit union.

Military Pay Differential

The 2003 General Assembly passed legislation that appropriated funding to pay a military pay differential and/or health insurance retention program to State employees called to extended active duty and on active duty as of March 19, 2003, or after. That legislation (Senate File 458, Section 21) was signed by then Governor Vilsack on May 31, 2003. The administration of the funds and the process is

the responsibility of the Iowa Department of Administrative Services, State Accounting Enterprise, Central Payroll. Funds are still available for payment to eligible employees.

While the process and required documentation has not changed, the information is repeated here for ease of reference. The overriding intent of these policies has been and continues to be making sure a State employee is made financially whole when mobilized for an extended period of time.

Eligible Employees:

Any employee of the State of Iowa on the DAS-SAE Central Payroll system or the Department of Transportation payroll system classified in such a manner as to work a regularly scheduled workweek during the week of March 19, 2003, or after, is potentially eligible. Eligible members are members of the Iowa National Guard or any of the organized reserve components with a valid mobilization order. Employees are eligible regardless of funding source of their employment.

Period of Eligibility:

Full time employees who were mobilized for extended active duty before March 19, 2003, and were still mobilized on that date, or who were ordered to extended federal duty after that date, normally under the provisions of title 10 USC Section 12302 (authorization for an extended mobilization period), for periods of one year or more are eligible, regardless of eventual duty location or the military operations. Individuals mobilized for periods of less than a year of federal service (normally special operations or medical personnel) will be considered for eligibility on a case by case basis. Members ordered to active duty for the performance of regularly scheduled Annual Training (AT) or incidental Active Duty for Training (ADT) are not eligible.

Calculation of Military Pay Differential:

The calculation of the military pay differential will consider all pay and allowances received by the service member and compare those payments to the pay the individual would have received as their regular rate of pay (i.e. scheduled hours, shift differential, special pays) had they been on the State payroll during the comparable period. Since military pay and allowances are calculated on a 30-day month, the military pay and allowances received by the employee will be converted to a daily rate and the daily rate will be multiplied by 14 to compare to the biweekly state rate.

The pay differential comparison will consider pay and allowances paid in each pay period. That is, retroactive military pay will be considered in the pay period paid and not applied to past calculations with the intent to reduce previous pay differential calculations.

Members utilizing the military leave provisions specified in Iowa Code, Chapter 29A.28 are not further eligible for the pay differential calculation for the same days.

Vacation usage charged to an employee and paid as accrued leave after the effective date of the mobilization order will have no effect on the pay differential calculation. That is, the fact of vacation election usage and the resulting pay does not alter the pay differential calculation process.

The calculation of the pay differential will consider the changes in salary that the employee would have gotten had they maintained continuous state employment (i.e., across-the-board increases and step increases if eligible for automatic step increases). The calculation will consider military promotions, longevity increases, or salary and allowance increases on a “when paid” basis.

The differential calculation will not consider that certain mobilized employees will have some or all pay tax exempt because of their duty location.

The calculated pay differential reimbursement to the departments will include funds sufficient to pay the mobilized employee the differential and the state share contributions of retirement, FICA, and deferred compensation match for the differential payment. The deferred compensation match will be paid only if the employee had the benefit when mobilized and only for the pay periods in which the pay differential is paid. DAS will adjust the IPERS payments to reflect the quarter in which earned. This may result in additional IPERS covered quarters for employees receiving the pay differential.

Calculation of Health Retention Program Payments:

Mobilized employees or their families are eligible for a monthly payment not to exceed the amount provided as the “state share” for employee health, dental coverage, and long term disability. The reimbursement amount will be the out-of-pocket costs spent to retain or obtain health, dental, and long term disability insurance coverages similar to that carried by the service member as a State employee in an amount in excess of the employee share of the premium, not to exceed the monthly state share contribution at the time of mobilization, and allowing for any subsequent increase in the state share. Payments made under this section of the bill will be considered reimbursements and will not be processed through the payroll system since such reimbursements are not taxable income.

Payment and Reimbursement Procedures:

To assure uniform and consistent treatment of mobilized State employees in the variety of situations outlined above across the enterprise, this program and the required reporting to the Legislative Fiscal Committee will be centralized in the Department of Administrative Services. Departments with mobilized employees meeting the criteria of this bill will have the responsibilities to:

- Identify eligible individuals, and provide information concerning the benefits applicable to them.
- Forward a copy of the mobilization order to DAS-SAE, Central Payroll (Michelle Wendel) when a claim is being submitted by the employee.
- Obtain and forward copies of all Department of Defense Leave and Earnings Statements (LES) received by the service member for the period covered by that service member’s military leave. (The LES is normally printed twice a month and covers pay periods from 1-15 and 16-30). These and other LES statements for unusual payments should also be obtained and forwarded to DAS-SAE, Central Payroll.

- Identify members or the families of mobilized employees who have made out-of-pocket payments for the continuation of medical and dental coverage where the cost exceeds the employee monthly premium deduction at the time of mobilization.
- Obtain evidence of premium payments outlined above and forward to DAS-SAE, Central Payroll.
- Obtain a copy of the demobilization order when the employee returns and forward it to DAS-SAE, Central Payroll.

DAS-SAE, Central Payroll has the following responsibilities:

- Implement and maintain procedures implementing the intent of the bill.
- Create and maintain the calculation methodology to assure the calculation of the pay differential is consistent in application across the enterprise.
- Receive mobilization order and pay documents, determine eligibility for the military pay differential, calculate the pay differential upon receipt of the service members' documentation, and notify departments of the amount to be reimbursed through HRIS/Payroll.
- Create the accounting document to distribute pay differential dollars and appropriate state share amounts to the employees' departments.
- Create the Personnel Action (P1) necessary to pay the differential to the employee.
- Create a monthly report for the fiscal committee of the Legislature.

It is important to note that there is no deadline for submission of claims for Military Pay Differential. Some employees have waited until they have several LES's and then submitted them. Some have submitted the claims when they return from active duty, and the pay differential is calculated and paid retroactive to the date they became eligible.

Return to Work

The employee must exercise their return rights as follows:

- If the military service is less than 31 days, the employee must report to the employer for reemployment at the beginning of the first full regularly scheduled work period on the first full calendar day following completion of service and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence.
- If the period of service was for 31 days or more, but less than 181 days, the employee must submit a written or verbal application for reemployment with the employer no later than 14 days after completing service.
- For service over 180 days, the employee must submit a written or verbal application for reemployment with the employer no later than 90 days after completion of the service.
- Use the discharge date on the DD-214 to determine when military service ended. A military member's return from a deployment does not necessarily mean that they have been discharged from military service.
- These time period restrictions shall be extended by up to two years if an employee is hospitalized or convalescing from an injury caused by active duty. The two-year period will be

extended by the minimum time required to accommodate the circumstances beyond the individual's control that make reporting with the time limits impossible or unreasonable.

- Employees who are discharged from the military under other than honorable service do not have return rights.

Employees who return from military service within the specified time frame are entitled to:

- Restoration of their previous adjusted employment date for vacation accrual purposes.
- Restoration of previous seniority date.
- Restoration of sick leave and vacation balance accruals at the time of induction or call to active duty.
- All pay adjustments and pay increases for which the employee would have been entitled had they not entered the military service. In other words, no adjustment will be made to the employee's pay increase eligibility date for the period of military service.

Employees will be returned to work in accordance with USERRA guidelines. If you need assistance when returning an employee to work, please consult with your Personnel Officer.

IPERS

Military service can affect the amount of employees' retirement, death, and disability benefits under IPERS. The number of service credits an employee has in IPERS-covered employment affects the employee's retirement benefit amount. Employees can receive free service credit or purchase service credits for active duty service. Employees can also make up contributions. Address questions about IPERS retirement benefits to IPERS at (515) 281-0020 or 1-800-622-3849. For more information, go to www.ipers.org.

Free Military Service Credit

If an employee is called to active military duty from an IPERS-covered position, and the employee returns to any IPERS-covered position in Iowa within 1 year of release from active duty, free IPERS service credit can be granted for the period of military service. To be eligible for free service credit, the employee must meet both of the following conditions:

- Be working in covered employment immediately before entering the Armed Forces.
- Return to IPERS-covered employment within 1 year after discharge.*

If the employee does not return to IPERS-covered employment within 1 year after being released from active duty, the employee can still add service credits by purchasing service credit for the period of military service.

*If the employee is unable to return to IPERS-covered employment because of an active duty injury or disease sustained in a combat zone, hazardous duty area, or during a contingency operation that results in death, free service credit will be granted for the period of military leave. The employee's IPERS account will be credited with this free service credit if the date of death is within two years after the injury or disease was first sustained.

Deemed Wages

If an employee qualifies for free service credit, the employee's IPERS account will also be credited with the wages that would have been earned if active duty service had not been undertaken. These deemed wages may be considered in determining the employee's highest average salary.

Making Up Contributions

If an employee leaves from and returns to IPERS-covered employment, the employee may, but is not required to, make up the contributions that would have been paid to IPERS while the employee was on active duty. Making up contributions may help employees who want:

- A refund.
- To maximize death benefits.

If an employee decides to make up the IPERS contributions, the employee's IPERS-covered employer must take a pretax deduction from the employee's paycheck and send it to IPERS. The employer also must pay IPERS the employer's share.

An employee has up to 3 times the period of his or her military service (up to a maximum of 5 years) from the date the employee went back to work to apply for and make payment to IPERS. (For example, if the military service was 12 months, the employee has 36 months to apply and make up the contributions.) Also, the employee must sign an agreement that the required contributions will be made within the required period. After the agreement is signed, it cannot be revoked.

Encourage employees to contact IPERS to help determine what is best. The ["Application for Free Military Credit"](#) and the "Application for Military Leave Contributions" are available on the [IPERS website](#). The forms for State employees are to be submitted to DAS-SAE, Central Payroll (Lisa Elliott) for completion and submission to IPERS. A copy of the employee's DD-214 form showing active duty begin/end dates should be provided with the application. SAE will return copies of the completed form to the department's Personnel/Payroll Assistant for the employee's personnel file.

Questions

Please address any questions concerning your employees' induction or call to active duty military service and returning to work following military leave to your Personnel Officer in DAS-HRE.

Please address any questions concerning the process for Military Pay Differential to DAS-SAE Central Payroll (Michelle Wendel) at (515) 281-3976.

Please address any questions concerning the IPERS free credit process to DAS-SAE Central Payroll (Lisa Elliott) at (515) 281-3130.